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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,998	05/19/2006	Bernhard Lucas	10191/4566	7625

26646 7590 06/08/2009

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EXAMINER	
BLOUNT, ERIC	
ART UNIT	PAPER NUMBER
2612	
MAIL DATE	DELIVERY MODE
06/08/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/579,998	LUCAS ET AL.	
	Examiner	Art Unit	
	ERIC M. BLOUNT	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *5/21/09*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *13-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *13-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 21, 2009 has been entered.

Status of the Claims

2. Claims 13-30 are pending. There have been no claim amendments.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 13-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ernst, Jr. et al [US 7,124,027 B1] in view of Olney et al [US 7,206,697 B2].

With regard to **claim 13**, Ernst discloses a method for warning a driver of a motor vehicle, comprising:

- detecting, by an object detector (104), at least one preceding vehicle (106), and a distance and relative velocity with respect to the motor vehicle (column 5, lines 3-20);
- supplying the distance and relative velocity to an evaluation device (column 5, line 65 – column 6, line 21);
- ascertaining, by the evaluation device, whether, assuming that the preceding vehicle performed a deceleration, a collision with the preceding vehicle would be avoidable as a function of a reaction time of the driver and a deceleration of the motor vehicle (column 27, line 15 - column 28, line 63; The assumption that a vehicle decelerates to stopped or a predetermined percentage reads on the claimed assuming the preceding vehicle performed a deceleration.); and
- activating a warning device in an event that the collision would be unavoidable (column 24, lines 10-63 and column 30, lines 24-66; Ernst shows that a warning is issued when a host vehicle approaches a leading vehicle inside a range wherein the vehicles would be capable of completely stopping without colliding.).

Ernst does not specifically disclose an instance wherein it is assumed that a preceding vehicle initiated a deceleration and that maximum possible deceleration is used to determine if an accident is avoidable. Ernst discloses that there are disturbing scenarios in which a vehicle collision with a preceding vehicle is imminent and provides calculations and measurements

based on assumptions (columns 27 and 28). In an analogous art for warning the driver of a motor vehicle, Olney teaches an extreme stop condition was known in the art wherein an evaluation device ascertains by assuming that a preceding vehicle initiated a deceleration, a collision would be avoidable as a function of a reaction time of the driver and a maximum possible deceleration of the motor vehicle (column 7, line 10 - column 8, line 26). Because Ernst suggests an extreme stop condition, having each of the references on hand, it would have been obvious to the skilled artisan to try the extreme stop condition taught by Olney in the invention of Ernst to yield the predictable results of a system wherein a user would be provided with a necessary warning even in extreme circumstances wherein a maximum possible deceleration would have to be applied by the user to avoid collision. Further, having both references on hand the artisan would recognize that several calculations and assumptions were known to be made in the art for determining when to warn a driver of an imminent collision, the artisan would have good reason to pursue the known options for providing a warning that were within his/her technical grasps.

As for **claims 14-16**, Ernst discloses a plurality of ways to determine driver reaction time (column 31, line 49 – column 32, line 2).

As for **claim 17**, Ernst discloses the warning device can issue an acoustic or visual signal (column 4, lines 54-62).

Regarding **claim 18**, the warning device issues a driver warning using a reversible belt tensioner, the reversible belt tensioner being pretensioned once or several times (column 7, lines 54-65).

As for **claim 19**, the warning device issues a driver warning device by a brief triggering of a deceleration device (column 8, lines 1-10).

As for **claim 20**, the warning device issues a driver warning at least one of: i) by a haptic accelerator pedal, and ii) in the form of a vibration of a steering wheel (column 7, lines 54-65).

As for **claim 21**, the claim is interpreted and rejected using the same reasoning as claim 13 above.

As for **claim 22**, the claim is interpreted and rejected using the same reasoning as claim 17 above.

As for **claim 23**, the claim is interpreted and rejected using the same reasoning as claim 18 above.

As for **claim 24**, the claim is interpreted and rejected using the same reasoning as claim 19 above.

As for **claim 25**, the claim is interpreted and rejected using the same reasoning as claim 14 above.

As for **claim 26**, the claim is interpreted and rejected using the same reasoning as claim 15 above.

As for **claim 27**, the claim is interpreted and rejected using the same reasoning as claim 16 above.

As for **claim 28**, the claim is interpreted and rejected using the same reasoning as claim 18 above.

As for **claim 29**, the claim is interpreted and rejected using the same reasoning as claim 19 above.

As for **claim 30**, the claim is interpreted and rejected using the same reasoning as claim 20 above.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Cusumano et al [US 5680118 A] discloses a vehicle signal apparatus wherein reaction times are predetermined.
- Matsumoto [US 5594412 A] discloses a warning system for vehicles wherein a reaction time is determined by averaging past reaction times.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC M. BLOUNT whose telephone number is (571)272-2973. The examiner can normally be reached on Monday-Thursday 8:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bejamin C. Lee can be reached on (571) 272-2963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Primary Examiner
Art Unit 2612

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